



## Senate

General Assembly

**File No. 354**

February Session, 2010

Substitute Senate Bill No. 403

*Senate, April 7, 2010*

The Committee on Public Health reported through SEN. HARRIS of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING HEALTH INFORMATION TECHNOLOGY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-25h of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 [(a) There is established a health information technology and  
5 exchange advisory committee. The committee shall consist of twelve  
6 members as follows: The Lieutenant Governor; three appointed by the  
7 Governor, one of whom shall be a representative of a medical research  
8 organization, one of whom shall be an insurer or representative of a  
9 health plan, and one of whom shall be an attorney with background  
10 and experience in the field of privacy, health data security or patient  
11 rights; two appointed by the president pro tempore of the Senate, one  
12 of whom shall have background and experience with a private sector  
13 health information exchange or health information technology entity,  
14 and one of whom shall have expertise in public health; two appointed  
15 by the speaker of the House of Representatives, one of whom shall be a

16 representative of hospitals, an integrated delivery network or a  
17 hospital association, and one of whom who shall have expertise with  
18 federally qualified health centers; one appointed by the majority leader  
19 of the Senate, who shall be a primary care physician whose practice  
20 utilizes electronic health records; one appointed by the majority leader  
21 of the House of Representatives, who shall be a consumer or consumer  
22 advocate; one appointed by the minority leader of the Senate, who  
23 shall have background and experience as a pharmacist or other health  
24 care provider that utilizes electronic health information exchange; and  
25 one appointed by the minority leader of the House of Representatives,  
26 who shall be a large employer or a representative of a business group.  
27 The Commissioners of Public Health, Social Services, Consumer  
28 Protection and the Office of Health Care Access, the Chief Information  
29 Officer, the Secretary of the Office of Policy and Management and the  
30 Healthcare Advocate, or their designees, shall be ex-officio, nonvoting  
31 members of the committee.

32 (b) All initial appointments to the committee shall be made on or  
33 before October 1, 2009. The initial term for the committee members  
34 appointed by the Governor shall be for four years. The initial term for  
35 committee members appointed by the speaker of the House of  
36 Representatives and the majority leader of the House of  
37 Representatives shall be for three years. The initial term for committee  
38 members appointed by the minority leader of the House of  
39 Representatives and the minority leader of the Senate shall be for two  
40 years. The initial term for the committee members appointed by the  
41 president pro tempore of the Senate and the majority leader of the  
42 Senate shall be for one year. Terms shall expire on September thirtieth  
43 in accordance with the provisions of this subsection. Any vacancy shall  
44 be filled by the appointing authority for the balance of the unexpired  
45 term. Other than an initial term, a committee member shall serve for a  
46 term of four years. No committee member, including initial committee  
47 member may serve for more than two terms. Any member of the  
48 committee may be removed by the appropriate appointing authority  
49 for misfeasance, malfeasance or wilful neglect of duty.

50 (c) The committee shall select a chairperson from its membership  
51 and the chairperson shall schedule the first meeting of the committee,  
52 which shall be held no later than November 1, 2009.

53 (d) Any member appointed to the committee who fails to attend  
54 three consecutive meetings or who fails to attend fifty per cent of all  
55 meetings held during any calendar year shall be deemed to have  
56 resigned from the committee.

57 (e) Notwithstanding any provision of the general statutes, it shall  
58 not constitute a conflict of interest for a trustee, director, partner,  
59 officer, stockholder, proprietor, counsel or employee of any eligible  
60 institution, or for any other individual with a financial interest in an  
61 eligible institution, to serve as a member of the committee. All  
62 members shall be deemed public officials and shall adhere to the code  
63 of ethics for public officials set forth in chapter 10. Members may  
64 participate in the affairs of the committee with respect to the review or  
65 consideration of grant-in-aid applications, including the approval or  
66 disapproval of such applications, except that no member shall  
67 participate in the affairs of the committee with respect to the review or  
68 consideration of any grant-in-aid application filed by such member or  
69 by an eligible institution in which such member has a financial interest,  
70 or with whom such member engages in any business, employment,  
71 transaction or professional activity.

72 (f) The health information technology and exchange advisory  
73 committee shall advise the Commissioner of Public Health regarding  
74 implementation of the health information technology plan. The  
75 committee shall develop, in consultation with the Commissioner of  
76 Public Health, (1) appropriate protocols for health information  
77 exchange, and (2) electronic data standards to facilitate the  
78 development of a state-wide, integrated electronic health information  
79 system, as defined in subsection (a) of section 19a-25d, for use by  
80 health care providers and institutions that are funded by the state.  
81 Such electronic data standards shall (A) include provisions relating to  
82 security, privacy, data content, structures and format, vocabulary, and

83 transmission protocols, with such privacy standards consistent with  
84 the requirements of section 19a-25g, (B) be compatible with any  
85 national data standards in order to allow for interstate interoperability,  
86 as defined in subsection (a) of section 19a-25d, (C) permit the collection  
87 of health information in a standard electronic format, as defined in  
88 subsection (a) of section 19a-25d, and (D) be compatible with the  
89 requirements for an electronic health information system, as defined in  
90 subsection (a) of section 19a-25d.

91 (g) The health information technology and exchange advisory  
92 committee shall examine and identify specific ways to improve and  
93 promote health information exchange in the state, including, but not  
94 limited to, identifying both public and private funding sources for  
95 health information technology. On and after November 1, 2009, the  
96 Commissioner of Public Health shall submit any proposed application  
97 for private or federal funds that are to be used for the development of  
98 health information exchange to the committee. Not later than twenty  
99 days after the date the committee receives such proposed application  
100 for private or federal funds, the committee shall advise the  
101 commissioner, in writing, of any comments or recommended changes,  
102 if any, that the committee believes should be made to such application.  
103 Such comments and recommended changes shall be taken into  
104 consideration by the commissioner in making any decisions regarding  
105 the grants. In addition, the committee shall advise the commissioner  
106 regarding the development and implementation of a health  
107 information technology grant program which may, within available  
108 funds, provide grants-in-aid to eligible institutions for the  
109 advancement of health information exchange and health information  
110 technology in this state. The commissioner shall offer at least one  
111 member of the committee the opportunity to participate on any review  
112 panel constituted to effectuate the provisions of this subsection.

113 (h) The Department of Public Health shall, within available funds,  
114 provide administrative support to the committee and shall assist the  
115 committee in all tasks, including, but not limited to, (1) developing the  
116 application for the grants-in-aid authorized under subsection (g) of

117 this section, (2) reviewing such applications, (3) preparing and  
118 executing any assistance agreements or other agreements in connection  
119 with the awarding of such grants-in-aid, and (4) performing such other  
120 administrative duties as the committee deems necessary. For purposes  
121 of this subsection, the Commissioner of Public Health may, within  
122 available funds, contract for administrative support for the committee  
123 pursuant to section 4a-7a.

124 (i) Not later than February 1, 2010, and annually thereafter until  
125 February 1, 2015, the Commissioner of Public Health and the health  
126 information technology and exchange advisory committee shall report,  
127 in accordance with section 11-4a, to the Governor and the General  
128 Assembly on (1) any private or federal funds received during the  
129 preceding quarter and, if applicable, how such funds were expended,  
130 (2) the amount of grants-in-aid awarded to eligible institutions, (3) the  
131 recipients of such grants-in-aid, and (4) the current status of health  
132 information exchange and health information technology in the state.

133 (j) For purposes of this section, "eligible institution" means a  
134 hospital, clinic, physician or other health care provider, laboratory or  
135 public health agency that utilizes health information exchange or  
136 health information technology.]

137 (a) There is hereby created as a body politic and corporate,  
138 constituting a public instrumentality and political subdivision of the  
139 state created for the performance of an essential public and  
140 governmental function, the Connecticut e-Health Authority, which is  
141 empowered to carry out the purposes of the authority, as defined in  
142 subsection (b) of this section, which are hereby determined to be public  
143 purposes for which public funds may be expended. The Connecticut e-  
144 Health Authority shall not be construed to be a department, institution  
145 or agency of the state.

146 (b) For purposes of this section, "purposes of the authority" means  
147 the purposes of the authority expressed in and pursuant to this section,  
148 including with respect to the promotion, planning and designing,  
149 developing, assisting, acquiring, constructing, maintaining and

150 equipping, reconstructing and improving health care information  
151 technology.

152 (c) (1) The Connecticut e-Health Authority shall be managed by a  
153 board of directors. The board shall consist of the following members:  
154 The Lieutenant Governor; the Commissioner of Public Health; three  
155 appointed by the Governor, one of whom shall be a representative of a  
156 medical research organization, one of whom shall be an insurer or  
157 representative of a health plan and one of whom shall be an attorney  
158 with background and experience in the field of privacy, health data  
159 security or patient rights; two appointed by the president pro tempore  
160 of the Senate, one of whom shall have background and experience  
161 with a private sector health information exchange or health  
162 information technology entity and one of whom shall have expertise in  
163 public health; two appointed by the speaker of the House of  
164 Representatives, one of whom shall be a representative of hospitals, an  
165 integrated delivery network or a hospital association and one of whom  
166 who shall have expertise with federally qualified health centers; one  
167 appointed by the majority leader of the Senate, who shall be a primary  
168 care physician whose practice utilizes electronic health records; one  
169 appointed by the majority leader of the House of Representatives, who  
170 shall be a consumer or consumer advocate; one appointed by the  
171 minority leader of the Senate, who shall have background and  
172 experience as a pharmacist or other health care provider that utilizes  
173 electronic health information exchange; and one appointed by the  
174 minority leader of the House of Representatives, who shall be a large  
175 employer or a representative of a business group. The Commissioners  
176 of Social Services and Consumer Protection, the Chief Information  
177 Officer of the Department of Information Technology, the Secretary of  
178 the Office of Policy and Management and the Healthcare Advocate, or  
179 their designees, shall be ex-officio, nonvoting members of the board.  
180 The Commissioner of Public Health shall serve as the chairperson of  
181 the board.

182 (2) All initial appointments to the board shall be made on or before  
183 October 1, 2010. The initial term for the board members appointed by

184 the Governor shall be for four years. The initial term for board  
185 members appointed by the speaker of the House of Representatives  
186 and the majority leader of the House of Representatives shall be for  
187 three years. The initial term for board members appointed by the  
188 minority leader of the House of Representatives and the minority  
189 leader of the Senate shall be for two years. The initial term for the  
190 board members appointed by the president pro tempore of the Senate  
191 and the majority leader of the Senate shall be for one year. Terms shall  
192 expire on September thirtieth of each year in accordance with the  
193 provisions of this subsection. Any vacancy shall be filled by the  
194 appointing authority for the balance of the unexpired term. Other than  
195 an initial term, a board member shall serve for a term of four years. No  
196 board member, including initial board members, may serve for more  
197 than two terms. Any member of the board may be removed by the  
198 appropriate appointing authority for misfeasance, malfeasance or  
199 wilful neglect of duty.

200 (3) The chairperson shall schedule the first meeting of the board,  
201 which shall be held not later than November 1, 2010.

202 (4) Any member appointed to the board who fails to attend three  
203 consecutive meetings or who fails to attend fifty per cent of all  
204 meetings held during any calendar year shall be deemed to have  
205 resigned from the board.

206 (5) Notwithstanding any provision of the general statutes, it shall  
207 not constitute a conflict of interest for a trustee, director, partner,  
208 officer, stockholder, proprietor, counsel or employee of any person,  
209 firm or corporation to serve as a board member, provided such trustee,  
210 director, partner, officer, stockholder, proprietor, counsel or employee  
211 shall abstain from deliberation, action or vote by the board in specific  
212 respect to such person, firm or corporation. All members shall be  
213 deemed public officials and shall adhere to the code of ethics for public  
214 officials set forth in chapter 10.

215 (6) Board members shall receive no compensation for their services,  
216 but shall receive actual and necessary expenses incurred in the

217 performance of their official duties.

218 (d) The board shall select and employ a chief executive officer who  
219 shall be responsible for administering the authority's programs and  
220 activities in accordance with policies and objectives established by the  
221 board.

222 (e) The board shall direct the authority regarding: (1)  
223 Implementation and periodic revisions of the health information  
224 technology plan submitted in accordance with the provisions of  
225 section 74 of public act 09-232, including the implementation of an  
226 integrated state-wide electronic health information infrastructure for  
227 the sharing of electronic health information among health care  
228 facilities, health care professionals, public and private payors, state and  
229 federal agencies and patients; (2) appropriate protocols for health  
230 information exchange; and (3) electronic data standards to facilitate the  
231 development of a state-wide, integrated electronic health information  
232 system, as defined in subsection (a) of section 19a-25d, for use by  
233 health care providers and institutions that receive state funding. Such  
234 electronic data standards shall: (A) Include provisions relating to  
235 security, privacy, data content, structures and format, vocabulary and  
236 transmission protocols; (B) limit the use and dissemination of an  
237 individual's Social Security number and require the encryption of any  
238 Social Security number provided by an individual; (C) require privacy  
239 standards no less stringent than the "Standards for Privacy of  
240 Individually Identifiable Health Information" established under the  
241 Health Insurance Portability and Accountability Act of 1996, P.L. 104-  
242 191, as amended from time to time, and contained in 45 CFR 160, 164;  
243 (D) require that individually identifiable health information be secure  
244 and that access to such information be traceable by an electronic audit  
245 trail; (E) be compatible with any national data standards in order to  
246 allow for interstate interoperability, as defined in subsection (a) of  
247 section 19a-25d; (F) permit the collection of health information in a  
248 standard electronic format, as defined in subsection (a) of section 19a-  
249 25d; and (G) be compatible with the requirements for an electronic  
250 health information system, as defined in subsection (a) of section 19a-

251 25d.

252 (f) Applications for grants from the authority shall be made on a  
253 form prescribed by the board. The board shall review applications and  
254 decide whether to award a grant. The board may consider, as a  
255 condition for awarding a grant, the potential grantee's financial  
256 participation and any other factors it deems relevant.

257 (g) The board may consult with such parties, public or private, as it  
258 deems desirable in exercising its duties under this section.

259 (h) Not later than February 1, 2011, and annually thereafter until  
260 February 1, 2016, the chief executive officer of the authority shall  
261 report, in accordance with section 11-4a, to the Governor and the  
262 General Assembly on (1) any private or federal funds received during  
263 the preceding year and, if applicable, how such funds were expended,  
264 (2) the amount and recipients of grants awarded, and (3) the current  
265 status of health information exchange and health information  
266 technology in the state.

267 Sec. 2. Section 19a-25g of the 2010 supplement to the general statutes  
268 is repealed and the following is substituted in lieu thereof (*Effective*  
269 *from passage*):

270 (a) [On and after July 1, 2009, the] The Department of Public Health  
271 shall be the lead health information exchange organization for the state  
272 from July 1, 2009, to December 31, 2010, inclusive. The department  
273 shall seek private and federal funds, including funds made available  
274 pursuant to the federal American Recovery and Reinvestment Act of  
275 2009, for the initial development of a state-wide health information  
276 exchange. [Any private or federal funds received by the department  
277 may be used for the purpose of establishing health information  
278 technology pilot programs and the grant programs described in  
279 section 19a-25h.]

280 (b) On and after January 1, 2011, the Connecticut e-Health  
281 Authority, established pursuant to the provisions of section 19a-25h, as

282 amended by this act, shall be the lead health information organization  
283 for the state. The authority shall continue to seek private and federal  
284 funds for the initial development of a state-wide health information  
285 exchange. The Department of Public Health may contract with the  
286 authority to transfer unexpended federal funds received by the  
287 department pursuant to the federal American Recovery and  
288 Reinvestment Act of 2009, P.L. 111-05, if any, for the initial  
289 development of a state-wide health information exchange. The  
290 authority shall, within available resources, provide grants for the  
291 advancement of health information technology and exchange in this  
292 state, pursuant to subsection (f) of section 19a-25h, as amended by this  
293 act.

294 [(b)] (c) The department shall [: (1) Facilitate] facilitate the  
295 implementation and periodic revisions of the health information  
296 technology plan after the plan is initially submitted in accordance with  
297 the provisions of section 74 of public act 09-232, including the  
298 implementation of an integrated state-wide electronic health  
299 information infrastructure for the sharing of electronic health  
300 information among health care facilities, health care professionals,  
301 public and private payors, state and federal agencies and patients [,  
302 and (2) develop standards and protocols for privacy in the sharing of  
303 electronic health information. Such standards and protocols shall be no  
304 less stringent than the "Standards for Privacy of Individually  
305 Identifiable Health Information" established under the Health  
306 Insurance Portability and Accountability Act of 1996, P.L. 104-191, as  
307 amended from time to time, and contained in 45 CFR 160, 164. Such  
308 standards and protocols shall require that individually identifiable  
309 health information be secure and that access to such information be  
310 traceable by an electronic audit trail] until December 31, 2010. On and  
311 after January 1, 2011, the Connecticut e-Health Authority shall be  
312 responsible for the implementation and periodic revisions of the health  
313 information technology plan.

314 Sec. 3. Section 1-124 of the general statutes is repealed and the  
315 following is substituted in lieu thereof (*Effective from passage*):

316 (a) The Connecticut Development Authority, the Connecticut  
317 Health and Educational Facilities Authority, the Connecticut Higher  
318 Education Supplemental Loan Authority, the Connecticut Housing  
319 Finance Authority, the Connecticut Housing Authority, the  
320 Connecticut Resources Recovery Authority, the Connecticut e-Health  
321 Authority and the Capital City Economic Development Authority shall  
322 not borrow any money or issue any bonds or notes which are  
323 guaranteed by the state of Connecticut or for which there is a capital  
324 reserve fund of any kind which is in any way contributed to or  
325 guaranteed by the state of Connecticut until and unless such  
326 borrowing or issuance is approved by the State Treasurer or the  
327 Deputy State Treasurer appointed pursuant to section 3-12. The  
328 approval of the State Treasurer or said deputy shall be based on  
329 documentation provided by the authority that it has sufficient  
330 revenues to (1) pay the principal of and interest on the bonds and notes  
331 issued, (2) establish, increase and maintain any reserves deemed by the  
332 authority to be advisable to secure the payment of the principal of and  
333 interest on such bonds and notes, (3) pay the cost of maintaining,  
334 servicing and properly insuring the purpose for which the proceeds of  
335 the bonds and notes have been issued, if applicable, and (4) pay such  
336 other costs as may be required.

337 (b) To the extent the Connecticut Development Authority,  
338 Connecticut Innovations, Incorporated, Connecticut Higher Education  
339 Supplemental Loan Authority, Connecticut Housing Finance  
340 Authority, Connecticut Housing Authority, Connecticut Resources  
341 Recovery Authority, Connecticut Health and Educational Facilities  
342 Authority, the Connecticut e-Health Authority or the Capital City  
343 Economic Development Authority is permitted by statute and  
344 determines to exercise any power to moderate interest rate fluctuations  
345 or enter into any investment or program of investment or contract  
346 respecting interest rates, currency, cash flow or other similar  
347 agreement, including, but not limited to, interest rate or currency swap  
348 agreements, the effect of which is to subject a capital reserve fund  
349 which is in any way contributed to or guaranteed by the state of  
350 Connecticut, to potential liability, such determination shall not be

351 effective until and unless the State Treasurer or his or her deputy  
352 appointed pursuant to section 3-12 has approved such agreement or  
353 agreements. The approval of the State Treasurer or his or her deputy  
354 shall be based on documentation provided by the authority that it has  
355 sufficient revenues to meet the financial obligations associated with the  
356 agreement or agreements.

357 Sec. 4. Section 1-125 of the general statutes is repealed and the  
358 following is substituted in lieu thereof (*Effective from passage*):

359 The directors, officers and employees of the Connecticut  
360 Development Authority, Connecticut Innovations, Incorporated,  
361 Connecticut Higher Education Supplemental Loan Authority,  
362 Connecticut Housing Finance Authority, Connecticut Housing  
363 Authority, Connecticut Resources Recovery Authority, including ad  
364 hoc members of the Connecticut Resources Recovery Authority,  
365 Connecticut Health and Educational Facilities Authority, Capital City  
366 Economic Development Authority, the Connecticut e-Health Authority  
367 and Connecticut Lottery Corporation and any person executing the  
368 bonds or notes of the agency shall not be liable personally on such  
369 bonds or notes or be subject to any personal liability or accountability  
370 by reason of the issuance thereof, nor shall any director or employee of  
371 the agency, including ad hoc members of the Connecticut Resources  
372 Recovery Authority, be personally liable for damage or injury, not  
373 wanton, reckless, wilful or malicious, caused in the performance of his  
374 or her duties and within the scope of his or her employment or  
375 appointment as such director, officer or employee, including ad hoc  
376 members of the Connecticut Resources Recovery Authority. The  
377 agency shall protect, save harmless and indemnify its directors,  
378 officers or employees, including ad hoc members of the Connecticut  
379 Resources Recovery Authority, from financial loss and expense,  
380 including legal fees and costs, if any, arising out of any claim, demand,  
381 suit or judgment by reason of alleged negligence or alleged  
382 deprivation of any person's civil rights or any other act or omission  
383 resulting in damage or injury, if the director, officer or employee,  
384 including ad hoc members of the Connecticut Resources Recovery

385 Authority, is found to have been acting in the discharge of his or her  
386 duties or within the scope of his or her employment and such act or  
387 omission is found not to have been wanton, reckless, wilful or  
388 malicious.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-25h
Sec. 2	<i>from passage</i>	19a-25g
Sec. 3	<i>from passage</i>	1-124
Sec. 4	<i>from passage</i>	1-125

**PH**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

---

**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill establishes the Connecticut e-Health Authority as a quasi-public entity and transfers to it the designation of lead health information exchange organization from the Department of Public Health (DPH).

The bill further authorizes DPH to transfer unexpended federal American Recovery and Reinvestment Act of 2009 (ARRA) funds to the Connecticut e-Health Authority for these purposes. DPH has received \$7.29 million in ARRA funding for the initial development of a statewide health information exchange. It is anticipated that \$4 million of those funds will be transferred from DPH to the Connecticut e-Health Authority. The Connecticut e-Health Authority is also authorized to seek out additional private and federal funds to fulfill its responsibilities under the bill.

As no funding has been included within sHB 5018 (the Revised FY 11 Budget, as favorably reported by the Appropriations Committee) to support the Connecticut e-Health Authority, it is expected that no state fiscal impact will result.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sSB 403*****AN ACT CONCERNING HEALTH INFORMATION TECHNOLOGY.*****SUMMARY:**

The bill establishes the “Connecticut e-Health Authority” as a quasi-public agency for health information technology (HIT) and health information exchange (HIE) in the state. It designates the authority as the lead HIE organization for the state beginning January 1, 2011. Under current law, the Department of Public Health (DPH) is the designated lead HIE organization for the state.

Under the bill, the authority takes over DPH’s responsibilities for the implementation and periodic review of the HIT plan. Currently, this includes the implementation of an integrated statewide electronic health information infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, and patients. DPH must develop standards and protocols for privacy in sharing electronic health information.

The law also established a Health Information Technology and Exchange (HITE) Advisory Committee. The bill replaces the HITE advisory committee with an authority board of directors. Board members are appointed by the governor and legislative leaders. The board also includes the lieutenant governor and the DPH commissioner who is the chairperson. A number of other executive branch officials serve as ex-officio, nonvoting members.

EFFECTIVE DATE: Upon passage

**CONNECTICUT E-HEALTH AUTHORITY*****Creation and Purposes***

The bill creates the “Connecticut e-Health Authority” as a quasi-

public agency and adds the authority to the statutes governing quasi-public agencies.

The purposes of the authority include promoting, planning and designing, developing, assisting, acquiring, constructing, maintaining and equipping, reconstructing, and improving health care information technology. Public funds may be spent to carry out these purposes. The authority is not a state department, institution, or agency.

### ***Board of Directors***

***Members and Appointing Authorities.*** Under the bill, the authority is managed by an 18-member board of directors. Members are (1) the lieutenant governor; (2) the DPH commissioner; (3) three members appointed by the governor, one who is a representative of a medical research organization, one an insurer or representative of a health plan, and one an attorney with experience in privacy, health care data security, or patient rights; (4) two appointed by the Senate president pro tempore, one with background in a private-sector health information exchange or HIT entity, and one with public health expertise; (5) two appointed by the speaker of the House, one a representative of hospitals, an integrated delivery network or hospital association, and one with expertise with federally qualified health centers; (6) a primary care physician whose practice uses electronic health records, appointed by the Senate majority leader; (7) a consumer or consumer advocate, appointed by the House majority leader; (8) a pharmacist or other health care provider that uses health information exchange, appointed by the Senate minority leader; and (9) a large employer or representative of a business group, appointed by the House minority leader.

The commissioners of social services and consumer protection, the chief information officer of the Department of Information Technology, the secretary of the Office of Policy and Management, and the healthcare advocate, or their designees are ex-officio, nonvoting members. The DPH commissioner is the board's chairperson.

Board membership and the respective appointing authorities are basically the same as for the existing HITE committee. (The chairperson of the HITE committee is chosen by its members, while the bill designates the DPH commissioner as the chairperson).

Board members are not compensated, but can receive actual and necessary expenses incurred in performing official duties. The board must employ a chief executive officer responsible for administering the authority's programs and activities according to the board's established policies and objectives.

**Board Members' Terms.** Initial board appointments must be made by October 1, 2010, with the initial term for the governor-appointed members being four years. For members appointed by the House speaker the term is three years, for those appointed by the House and Senate minority leaders, two years. The initial term for the members appointed by the Senate president and majority leader is one year. Terms expire on September 30 of each year. Vacancies must be filled by the appointing authority for the rest of the term. Other than the initial term, a member serves for four years. No board member can serve more than two terms. Members can be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty.

The first board meeting must be held by November 1, 2010. A member failing to attend three consecutive meetings or 50% of all meetings during a calendar year is deemed to have resigned.

**Conflicts of Interest, Ethics.** The bill provides that it is not a conflict of interest for a trustee, director, partner, officer, stockholder, proprietor, counsel, or employee of any person, firm, or corporation to serve as a board member, provided the individual abstains from deliberation, action, or vote by the board in specific respect to such person, firm, or corporation. All members are considered public officials and must follow the code of ethics for public officials.

**Board Direction.** The board must direct the authority concerning:

(1) implementation and periodic revisions of the HIT plan submitted as required by law, including implementation of an integrated statewide electronic health information infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, state and federal agencies, and patients; (2) appropriate protocols for health information exchange; and (3) electronic data standards to assist the development of a statewide, integrated electronic health information system for use by health care providers and institutions that receive state funding.

The electronic data standards must: (1) include provisions on security, privacy, data content, structures and format, vocabulary and transmission protocols; (2) limit the use and dissemination of an individual's social security number (SSN) and require its encryption; (3) require privacy standards no less stringent than the "Standards for Privacy of Individually Identifiable Health Information" established under the federal Health Insurance Portability and Accountability Act (HIPAA); (4) require that individually identifiable health information be secure with access to it traceable by an electronic audit trail; and (5) be compatible with any national data standards to allow for interstate interoperability, permit collection of health information in a standard electronic format, and be compatible with the requirements for an electronic health information as these terms and requirements are defined under current law (CGS §, 19a-25d).

The board can consult with public or private parties as it finds desirable in exercising its duties.

**Grants.** Applications for grants from the authority must be made on a board-prescribed form. The board must review applications and decide whether to make an award. The board may consider as a condition for receiving a grant, the applicant's financial participation and any other factors considered relevant.

**Reports.** By February 1, 2011 and annually until February 1, 2016, the authority's chief executive officer must report to the governor and the General Assembly on (1) any private or federal funds received

during the preceding year and how they were spent, (2) grant recipients and amounts, and (3) the current status of HIE and HIT in the state.

### **LEAD HEALTH INFORMATION EXCHANGE (HIE) ORGANIZATION**

Current law designates DPH as the state's lead HIE organization and requires the department to seek private and federal funds, including those available under the federal American Recovery and Reinvestment Act (ARRA) for the initial development of a statewide HIE. DPH can use any private or federal funds it receives to establish HIT pilot programs and grant programs.

This bill designates DPH as the state's lead HIE organization until December 31, 2010. It eliminates the pilot and grant program language. Beginning January 1, 2011, the bill designates the Connecticut e-Health Authority as the lead HIE organization for the state. The authority must continue to seek private and federal funds for the initial development of a statewide HIE. DPH may contract with the authority to transfer unexpended ARRA funds it received for the initial development of a statewide HIE. Within available resources, the authority can provide grants for the advancement of HIT and HIE.

Currently, DPH must (1) assist with implementation and periodic revisions of the HIT plan after its initial submittal, including implementing an integrated statewide infrastructure for sharing electronic health information among health care facilities, health care professionals, public and private payors, and patients. The bill adds sharing the information among state and federal agencies as well. The bill specifies that DPH is responsible for these activities until December 31, 2010. After that time, the Connecticut e-Health Authority is responsible for the implementation and periodic revisions of the HIT plan. Other DPH duties concerning developing privacy standards and protocols for sharing HIE become the responsibility of the authority as described above.

### **BACKGROUND**

***Related Bill***

HB 5354, favorably reported by the Human Services Committee, removes DPH as the state's lead health information exchange organization.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea    30    Nay   1    (03/24/2010)